

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JENNIFER GORDON, VALERIE
TANTLINGER and JENNIFER
UNDERWOOD,**

Plaintiffs,

v.

**KOHL'S DEPARTMENTS STORES, INC.
and CAPITAL ONE, NATIONAL
ASSOCIATION,**

Defendants.

CIVIL ACTION

NO. 15-730

O R D E R

AND NOW, this 7th day of August, 2017, upon review of Defendants' Motion for Summary Judgment (ECF No. 163); Plaintiffs' Response in Opposition thereto (ECF No. 169); Defendants' Reply in Support thereof (ECF No. 172); and Plaintiffs' Motion for Leave to File Sur-Reply in Opposition thereto (ECF No. 177), after oral argument and for the reasons set forth in the Court's Opinion of August 7, 2017 (ECF No. 178), **IT IS HEREBY ORDERED** that:

(1) Plaintiffs' Motion for Leave to File a Sur-Reply (ECF No. 177) is **GRANTED**; and

(2) Defendants' Motion for Summary Judgment (ECF No. 163) is **GRANTED in part and DENIED in part** as follows:

(1) Defendants' motion is **GRANTED** with respect to all claims by Plaintiffs Jennifer Gordon and Valerie Tantlinger, and **JUDGMENT IS ENTERED IN FAVOR** of Defendants Kohl's Department Stores, Inc. and Capital One, National Association, and **AGAINST** Plaintiffs Jennifer Gordon and Valerie Tantlinger on all claims;

(2) Defendants' motion is **GRANTED** with respect to Plaintiff Jennifer Underwood's claims under Count I (good faith and fair dealing) in their entirety, and Count II (unjust enrichment) to the extent that they arise from Kohl's Account Ease, and **JUDGMENT IS ENTERED IN FAVOR** of Defendants Kohl's Department Stores, Inc. and Capital One, National Association, and **AGAINST** Plaintiff Jennifer Underwood on Count I in its entirety and Count II to the extent it arises from Kohl's Account Ease; and

(3) Defendants' motion is **DENIED** with respect to Count II (unjust enrichment) by Plaintiff Jennifer Underwood arising from PrivacyGuard.

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.